

## REMARKS

### INTRODUCTION

Applicants appreciate the thorough response to the previous arguments. Prior to entry of this amendment, Claims 1-40 were pending in this application. By this amendment, Claims 1-6, 9, 11-15, 17, 19-24, 26, 29, 31-36 and 39 are amended. No claims are added or canceled. Hence, Claims 1-40 are presently pending in this application.

In the Office Action, Claims 1-40 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Krishnamurthy et al. ("*Krishnamurthy*"; U.S. Pat. No. 6,389,464) in view of Spofford et al. ("*Spofford*"; U.S. Pat. No. 5,913,037). Applicants traverse this rejection.

### REJECTION BASED ON PRIOR ART

#### Rejection under 35 U.S.C. §103(a)

##### (A) Summary of Krishnamurthy

The primary reference, *Krishnamurthy*, describes a system comprising a site server 12 to which a number of devices 14 can be connected (col. 5, lines 48-50) and a relational database 80 for storing configuration data which, when used in connection with MIB files, allows native interfaces of devices to be interpreted as SNMP operations, thereby allowing for management of different types of devices 14 connected to the site server 12 (col. 6, lines 58-65). Further, a web server 64 of site server 12 supports a scripting language to allow commands to operate on the relational database 80 (col. 8, lines 24-27) and to specify variables in the scripting language to bind to specific MIB instances, thus indicating to an SNMP agent 82 that a specific procedure should be run during processing of SNMP operations (col. 9, lines 30-38).

As previously noted, the site server 12 is designed to be configured from a remote computer 58 using a web browser (col. 12, lines 39-42) and is programmed to download device MIBs corresponding to devices 14 connected to its ports 92, 94, 96 (col. 14, lines 37-40). For example, a Get command is placed in a native protocol and format that can be understood by a device 14 (col. 16, lines 39-42). The site server is further characterized as a universal device management communication interface (col. 19, lines 23 and 24) and universal device management terminal for managing a plurality of devices from different vendors (col. 20, lines 30 and 31).

(B) Patentable Distinctions Between Cited References and the Claims of the Present Application

There are subtle but patentable distinctions between independent Claims 1, 11, 17, 23, 24 and 31 and *Krishnamurthy*. The Office Action relies on the site server of *Krishnamurthy* for a teaching of a managed network device, reasoning that since the site server is configurable from a remote computer using a web browser, it is a managed device. However, that reasoning is inconsistent with the remainder of the claim language, namely that (1) **a request is received at a managed device** to obtain the current value of a MIB variable, and that (2) the current value is **received from the MIB of the managed device to which the variable pertains**. Thus, the claims recite that **the same managed network device receives the request for the value and receives the value from its local MIB**. Non-limiting examples of managed network devices as claimed and described in the specification include routers and switches. These are network **infrastructure** elements rather than end stations such as the site server in *Krishnamurthy*.

The system of *Krishnamurthy* receives requests for management information at a site server 12a, 12b, 12c, which accesses a local MIB 72 for information about a managed device 14. The site server must separately query the managed devices and populate the local MIB based on the responses of the devices. Hence, the site server of *Krishnamurthy* is not the managed device to which the variable pertains, which is the same managed device that receives the request in the claims of the present application. Therefore, reasoning that the site server is the managed device that receives the request for a variable value is inconsistent with the fact that the variable value is received from the MIB of the same managed device to which the variable pertains. This is clearly not the case with the system disclosed in *Krishnamurthy*.

In fact, *Krishnamurthy* teaches away from these claims because *Krishnamurthy* is directed at a universal device management communication interface/terminal that foregoes any need to modify or provide additional functionality to the actual network devices being managed. In contrast, the managed network device in the claims of the present application is directly queried from a web browser for management information pertaining to the network device itself. In an embodiment, HTTP-related components are **within** a router or switch and not external to the router or switch, as in *Krishnamurthy*.

The foregoing discussion shows that *Krishnamurthy* does not teach, suggest or motivate the features recited in the claims of the present application. Furthermore, the disclosure of *Spofford* does not cure the noted deficiencies in the disclosure of *Krishnamurthy*. Not only do the cited references fail to teach or disclose all of the features recited in the claims, furthermore, one skilled in the art would not be motivated to arrive at the techniques recited in the claims based on the cited references. It is well-settled law that

“obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination” (*In re Geiger*, 815 F.2d 686, 2 USPQ 2d 1276, 1278 (Fed. Cir. 1987)).

One skilled in the art would not be motivated, at the time the present invention was made, to directly query, from a web browser, a managed network device for management information pertaining to the network device itself. One reason is that none of the cited references disclose or enable the translation of protocols and other processing that would be required of the managed network device. For example, the cited references do not suggest or motivate including HTTP and SNMP daemons and an HTTP-SNMP interface process or translator **within the managed device**. Hence, the disclosures contained in the cited references do not provide sufficient teachings to one skilled in the art to arrive at a **working combination of the available teachings** that make obvious the subject matter of Claims 1, 11, 17, 23, 24 and 31. An obviousness rejection is not appropriate if substantial reconstruction or redesign of the prior art references is necessary to arrive at the invention, as is the case with *Krishnamurthy* and *Spofford*. Therefore, a combination of the cited references do not support an obviousness rejection of Claims 1, 11, 17, 23, 24 and 31.

Furthermore, it appears that the alleged motivation to combine or modify the cited references, put forth on page 5 of the Office Action, is improperly drawn from Applicants’ disclosure. It is well-settled law that “[i]t is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious” and that “[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed

invention” (*In re Fritch*, 972 F.2d 1260, 23 USPQ 2d 1780, 1784 (Fed. Cir 1992); quoting *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988)).

The claims, as examined, were clear with respect to reciting that the same managed device performs the recited steps, since proper antecedent basis was included in these claims. However, in order to make it even clearer that the managed device that receives the request is the same managed device from whose MIB the variable value is received, independent Claims 1, 11, 17, 23, 24 and 31 are amended such that each reference to the managed device is to the same “first managed network device.” This amendment is not made for reasons related to patentability and is tangential to any equivalents of the amended features. Furthermore, this amendment should not require a new prior art search since it does not change the meaning or scope of the claims.

The remainder of the claims, dependent Claims 2-10, 12-16, 18-22, 25-30 and 32-40 depend either directly or indirectly from Claims 1, 11, 17 and 31. Therefore, Claims 2-10, 12-16, 18-22, 25-30 and 32-40 are patentable over the references of record for at least the same reasons as presented above in reference to their parent claims.

Withdrawal of the rejection of Claims 1-40 is kindly requested.

## CONCLUSION

For at least the reasons indicated above, Applicants submit that all of the pending claims (1-40) present patentable subject matter over the references of record, including that which was cited but not applied, and are in condition for allowance. Therefore, Applicants respectfully request the Office to issue a timely Notice of Allowance in this case. If the Examiner has questions regarding this case, the Examiner is invited to contact Applicant's undersigned representative.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortages in fees due in connection with the filing of this paper, including extension of time fees, or credit any overages to Deposit Account No. 50-1302.

Respectfully Submitted,

HICKMAN PALERMO TRUONG & BECKER  
LLP

Date: 11/24/03

John D. Henkhaus  
John D. Henkhaus  
Reg. No. 42,656

(408) 414-1203  
1600 Willow Street  
San Jose, CA 95125-5106

### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450

on 11/25/03 by Clare Lamy